

## Farm Service Agency, USDA

## § 760.1311

The total available program funds are \$290,000,000.

(b) FSA will prorate the available funds by a national factor to ensure payments do not exceed \$290,000,000. The payment will be made based on the national payment rate as determined by FSA. FSA will prorate the payments based on the amount of milk production eligible for payments in a fair and reasonable manner.

(c) A reserve will be created to handle new applications, appeals, and errors.

### § 760.1307 Dairy operation payment quantity.

(a) A dairy operation's payment quantity (the quantity of milk on which the "operation" can generate payments for "producers" involved in the operation) will be determined by FSA, based on the pounds of production of commercially marketed milk during the months of February 2009 through July 2009, multiplied by two.

(b) The maximum payment quantity for which a dairy operation can generate payments for its dairy producers under this subpart will be 6,000,000 pounds.

(c) The dairy operation's payment quantity will be used to determine the amount of DELAP payments made to dairy producers.

### § 760.1308 Payment rate.

(a) A national per-hundredweight payment rate will be calculated by dividing the available funding, less a reserve established by FSA, by the total pounds of eligible production approved for payment.

(b) Each eligible dairy producer's payment with respect to an operation will be calculated by multiplying the payment rate determined in paragraph (a) of this section by the dairy producer's share in the dairy operation's eligible production payment quantity as determined in accordance with section § 760.1307.

(c) In the event that approval of all eligible requests for benefits would result in expenditures in excess of the amount available, FSA will reduce the payment rate in a manner that FSA determines to be fair and reasonable.

### § 760.1309 Appeals.

The appeal regulations set forth at 7 CFR parts 11 and 780 apply to determinations made under this subpart.

### § 760.1310 Misrepresentation and scheme or device.

(a) In addition to other penalties, sanctions or remedies as may apply, a dairy producer or operation will be ineligible to receive benefits under this subpart if the producer or operation is determined by FSA to have:

(1) Adopted any scheme or device that tends to defeat the purpose of this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any payment to any person or operation engaged in a misrepresentation, scheme, or device, must be refunded with interest together with such other sums as may become due. Any dairy operation or person engaged in acts prohibited by this section and receiving payment under this subpart will be jointly and severally liable with other producers or operations involved in such claim for benefits for any refund due under this section and for related charges. The remedies provided in this subpart will be in addition to other civil, criminal, or administrative remedies that may apply.

### § 760.1311 Death, incompetence, or disappearance.

(a) In the case of the death, incompetency, or disappearance of a person or the dissolution of an entity that is eligible to receive benefits in accordance with this subpart, such alternate person or persons specified in 7 CFR part 707 may receive such benefits, as determined appropriate by FSA.

(b) Payments may be made to an otherwise eligible dairy producer who is now deceased or to a dissolved entity if a representative who currently has authority to enter into an application for the producer or the producer's estate makes the request for benefits as specified in § 760.1303. Proof of authority over the deceased producer's estate or a dissolved entity must be provided.